

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION**

MITCHELL HAYWARD BAILEY,
Plaintiff,

vs.

UNITED STATES OF AMERICA,
Defendant.

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CA C-06-168

ORDER TO PRODUCE MAIL LOG

Pending in this case is defendant's motion to dismiss where defendant argues in part that plaintiff's challenge to the forfeiture of currency is barred by the statute of limitation (D.E. 13.) Plaintiff signed his original motion on March 10, 2006 (D.E. 1, p.2). That was the last day plaintiff could have timely filed his motion and if he placed it in the prison mail system that day, it was timely filed. See Houston v. Lack, 487 U.S. 266, 108 S.Ct. 2379, 101 L.Ed.2d 245 (1988).

The envelope in which the motion was sent was postmarked April 3, 2006 (D.E. 1). Because approximately three weeks passed between the time plaintiff signed his motion and the day the envelope was postmarked, a fact question exists regarding the day plaintiff placed the motion in the prison mailing system. Accordingly, defendant is ordered to produce the mail log from Federal Prison Camp Millington in Millington, Tennessee for the dates of March 10, 2006 through April 3, 2006. Defendant is ordered to produce the mail log on or before December 6, 2006.

ORDERED this 15th day of November, 2006.


B. JANICE ELLINGTON
UNITED STATES MAGISTRATE JUDGE